

SUMMIT-ON-HUDSON (PLUM POINT) SUBDIVISION (03-35)

Gerald Jacobowitz, Esq. appeared before the board for this proposal.

MR. PETRO: Application proposes formal subdivision of the southerly portion of the Section 6 of the Plum Point condo project into two lots. Now, this again goes along the school district line, let me forget all this because I need to clarify something first. This property that you want to subdivide along the school district line--how are you doing?

MR. JACOBOWITZ: Good evening, Mr. Chairman, how are you? I lost a lot of weight, you couldn't see me?

MR. PETRO: I just looked up, I think I see a Godly figure there or something.

MR. JACOBOWITZ: Well, bless you.

MR. PETRO: Let me ask you this, Mr. Jacobowitz, do we have frontage on Lafayette Drive which I believe is a paper road, Mark, but are we going, is that legally--

MR. EDSALL: This section it's a paper road.

MR. PETRO: Here's my concern. We need to have frontage on the Town road to create the subdivision as far as the Town is concerned.

MR. BABCOCK: Jim, I think there's one issue I don't know that we're talking about a subdivision, we're actually talking about a lot line change.

MR. PETRO: Okay, well, explain that to me, do that for me, where is the existing lot line as it is now and I know where we're going to because I know the Cornwall line there, school line.

MR. JACOBOWITZ: This property is two tax map parcels already, so what we're asking for is for us to confirm that it is two lots, for subdivision purposes, it's already two tax lot parcels 81-1-2 and 81-1-3.42.

MR. PETRO: But again, we don't allow the school district to dictate to us that they're creating two separate lots.

MR. BABCOCK: Jim, they do.

MR. EDSALL: Well, for tax purposes, right, in other words, by virtue of the necessity to have separate tax bills for the different portions of the parcel, it's two tax lots for purposes of this board's approval that they be separate and distinct lots, no, that's what they're here for.

MR. PETRO: Oh, but they're not already existing?

MR. EDSALL: They're existing tax lots but for purposes of the--

MR. PETRO: Where is the lot line here? It's still one big piece as far as we're concerned, as far as the municipality is saying it's one large lot, if you took away the school district lines, it's one large lot, correct?

MR. JACOBOWITZ: Yes.

MR. PETRO: Okay, once we do this lot line change and I'm not so sure that it is a lot line change, I kind of disagree, I think it's a subdivision, you're taking one large lot and making two lots so why that's not a subdivision, I'm not quite so sure. If we create this second lot, where is the frontage for the second lot and can we put it on the paper road for further development?

MR. JACOBOWITZ: Well, Lafayette Drive we have an easement over Lafayette Drive as a matter of right because we adjoin that road in two places 119 plus feet, 115 plus feet. So we have an easement and right-of-way over whatever Lafayette Drive is as a paper street so that would be our access via our easement over Lafayette Drive.

MR. PETRO: I'm not opposed to that, just want to make sure that that's correct, they can accept that. I don't know why they can't because here's what I'm thinking about and I don't know that you're going to do this and I'm not insinuating this or anything, this could be cut off of here and let go for taxes because nobody cares about it, it's sitting there, there's no way to get to it, it's a landlocked piece, who knows what could happen with it, if someone could come in and purchase the property and come in off Lafayette Drive, it has a value. So you may not ever do that or the owner, whoever the owner would be and therefore, it would have a value, be a good piece of property. But we need to be able to get to it, first of all, I can't create a subdivision and I'm going to call it a subdivision till somebody proves that it's a lot line change, cause I don't know where we're moving the lot line to or from. I don't think we're moving it, you're creating it along the tax map line. So Mark, my question again is I guess to you is can we use that frontage of 115 feet, 119 feet on Lafayette Drive which doesn't exist but it's a paper road and they have an easement over it as frontage for this new lot that we're creating? I'm not opposed to that. I want to know if it's legal and it's the right thing to do.

MR. EDSALL: I don't know that I'm the right one to say it's legal, but I can draw on some experience on what we dealt with with MacNary, MacNary Lane where an applicant desired a subdivision and that subdivision had frontage on a Town property and it was not an improved Town road and the Town's decision was that

until it was improved, they weren't going to consider that as road frontage. And that particular applicant decided that it would be best to sue the Town of New Windsor and the court agreed with the Town that a Town property is not road frontage, had to be actual improved road. But that's why we're down here, apologize for kind of talking, not listening, but I was talking to the Highway Superintendent as to where the road ends and where it might be possible to create road frontage.

MR. PETRO: Ends back into the trailer park, correct, it's not too far in there, just go back?

MR. KROLL: Straight down the hill and stops.

MR. EDSALL: Looks as if where the property's road is and Bonano are probably where the road ends, so there's the potential of if there was the ability to create a turnaround of sorts or an extension, we've got the 119 plus 25 which is very close to the existing road.

MR. PETRO: If I'm hearing you correct, what I would suggest is that the applicant, if he wants to make this subdivision and have it be a separate parcel of property, he should maybe improve the road to that point, so you have frontage on this property.

MR. JACOBOWITZ: When we're going to do something with this piece, we would have to take care of the issue of access because the building inspector isn't going to issue a building permit unless you show that there is adequate access over either a public road, a road on a subdivision map or a road on the official map. This is a road that's on a filed subdivision map so we'll have to come in and show that. Now, he will say I'm not issuing a building permit until you show that the access is adequate, adequate under the law is that there's a safe means of ingress for all types of emergency vehicles and we can't get the building permit

until we do that. Now, that decision is made by the Zoning Board, as crazy as the system is, the issue of adequate access over a paper street is done by the ZBA so we're going to have to go through that whole process before we're going to be able to do anything on this piece.

MR.E PTRO: What would stop, you're the applicant, from going to the Town and saying look, you just created a lot on this Town road, evidently, you picked this frontage, now build it, tell the Town to build the road. Same thing we went through with MacNary at the Town's expense to bring the road into your property, if we're creating that lot, I mean, that would be if I was thinking along those lines, I would say listen--

MR. JACOBOWITZ: My mind isn't as--

MR. PETRO: Well, after 13 years, you kind of think of all the little angles. That's a pretty good angle.

MR. JACOBOWITZ: We don't want the Town to build a road, no, so we can put that in here as a condition on the subdivision plan, a note that the applicant recognizes there's no obligation by the Town to construct Lafayette Drive.

MR. PETRO: Again, it's this applicant.

MR. JACOBOWITZ: Runs with the title. And that's, and the reason I'd like to be a little indeterminate, we're not sure whether the road should come in at the left or right end here, it all depends on what is going to happen to this property. So rather than try to determine today where the road access is going to enter into the property, as long as the Town's protected which it is under the structure of approvals that have to be obtained, adequate access, adequate has to be satisfactory to the ZBA, and adequate is defined as being suitable access for emergency vehicles and other

vehicles.

MR. PETRO: Why not do the subdivision when you're ready to start building and you know where the road's going, why do it now, for what reason?

MR. JACOBOWITZ: Because having this piece as part of lot 2 creates problems for us in lot 2 because we're mortgaging separately, our land use plan for lot 2 is a separate, separate plan and we need to have, we now have two separate tax map parcels, but we only have one title here and the bank says show us where it was ever subdivided and we have to show it was subdivided. So that's why we're here to create these two lots so that we don't have a problem with lot 2 and lot 1 that's in the future and we'll have to satisfy all the hurdles then.

MR. PETRO: Let me direct this question, and Andy, I want it as very simple, almost a yes and no answer, I want to ask you something. Can this board create a separate lot on a paper road, can we use Lafayette Drive as frontage for this lot, is that a legal thing that we can do?

MR. KRIEGER: No.

MR. PETRO: So we're under his advice, we can't do it even if we want to, everybody is here, ready to go.

MR. EDSALL: My concern would be inconsistency in the fact that you have already gone this route with another applicant, made a determination, went to court, had the Town's determination upheld and now you'd be coming up with a determination completely opposite of what you have already done. What I suggest they do and it may be the most expedient way of solving it, show both sides of the Lafayette Drive paper road so we can get an idea of orientation, show physically where the road ends, it may be that they can put in 100 foot of

pavement on the existing Town property and effectively extend the improved road so that there's street frontage, although as Gerry indicates, they may want to access from the other side, fine, but from from this board's standard point, you're going to create 125 foot of road frontage, street frontage which is what the code calls for if they ever use it, fine.

MR. ARGENIO: You're saying create the frontage?

MR. EDSALL: You're not talking about 5,000 foot of road.

MR. JACOBOWITZ: The Town road ends now approximately 100 and some feet.

MR. EDSALL: I'm not sure but I'm hearing from everyone the driveways extend down the Town paper road but the road doesn't, so if you put in 150 foot of pavement, you've got frontage and the whole issue goes away.

MR. PETRO: I think I suggested that earlier.

MR. EDSALL: Just going along with a good idea.

MR. EDSALL: I'm not sure how many feet until they show us where it ends.

MR. SCHLESINGER: They have 119.

MR. EDSALL: Plus 25 when it turns.

MR. SCHLESINGER: Okay.

MR. EDSALL: So you can very easily create that an the issue goes away.

MR. JACOBOWITZ: Okay, that makes sense.

MR. PETRO: Simple, right?

MR. JACOBOWITZ: Sure.

MR. PETRO: Then I have no problem at all, so that would be a condition of approval is that what you're saying, Mark, a condition of approval to improve the road?

MR. EDSALL: Well, I don't know whether or not you've got enough information, that's up to you, I mean, I'd like to see a survey that picks up, I mean, they've got all the topo here, they've got one side of the right-of-way, be nice if we had the other side of the right-of-way and an idea of what's going on in this one little area. I've got some other issues here that they've got no bulk table, they've got to give us proposed compliance for lot widths, for road frontage, I think what Mike had asked that they make sure they give us on the record for the Plum Point condo project and again, talking to Izzy, we know it meets it, but record should be clear, show that the density for the Plum Point project with this parcel subtracted still is in compliance because the original site plan approval included this 7 acres. Now it's not going to, so they've got to do that. Gerry can answer the other question I have here as to whether or not A.G. has to be involved at all, obviously.

MR. JACOBOWITZ: No.

MR. EDSALL: Water and sewer I guess you should tell us if not that now the lot areas depend on it, but just a note as to whether or not there's water and sewer service to the lot. Here's a copy, Gerry, I don't think there's anything insurmountable, we need some more information on the plan.

MR. PETRO: Lead agency shouldn't be a problem.

MR. EDSALL: You've got no other involved agencies.

MR. PETRO: Motion to that effect.

MR. ARGENIO: So moved.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and second that the New Windsor Planning Board declare itself lead agency for the Plum Point on the Hudson minor subdivision off Lafayette Drive. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. ARGENIO: I have one question, we're calling this a subdivision?

MR. PETRO: Correct.

MR. BABCOCK: That was my mistake.

MR. KRIEGER: Legally all lot line applications have to be considered subdivisions legally anyway.

MR. EDSALL: This isn't a lot line.

MR. BABCOCK: That was my mistake, it's a subdivision.

MR. KROLL: There was a problem with driveways, I think somebody has an easement for a driveway, the second house in.

MR. JACOBOWITZ: I don't know the answer.

MR. KROLL: You have to find out.

MR. JACOBOWITZ: Which lot do you mean?

MR. KROLL: It's not marked there.

MR. EDSALL: Probably one of these two Bonano properties.

MR. KROLL: There's two houses right at the end of the road as you're going down on the right-hand side, both driveways come in there and there was a problem with that.

MR. EDSALL: You can have Mr. Walden just verify at least research this corner of the paper road and make sure that is in fact wholly a Town property. And I don't know how the Town would have an easement over it, they'd be using the Town's road as or Town's property as access. As long as he tells us that there's no easements there and that it's a Town right-of-way, I think you're in good shape.

MR. PETRO: Show us 125 feet of frontage on the Town road, improved Town road and any technical comments from Mark and seems like it's pretty good.

MR. JACOBOWITZ: Can you give us a hearing date and we'll get the plan back to Mark?

MR. PETRO: For public hearing?

MR. JACOBOWITZ: Yes.

MR. PETRO: I think we should really wait on that until you find out more about the road because I mean we're not positive you can get the 125 feet, you have easements and cross-easements and is it going to happen?

MR. JACOBOWITZ: Yeah, we've got 125 feet here of frontage, 119 plus 25.

MR. PETRO: We can authorize a public hearing and when you're ready then at least you don't have to come back, we can move forward, do that, if you want to do that. Is anybody opposed to that? Whenever he's ready, he can just contact Myra, Mark reviews it and he's ready to go with a public hearing. Motion to that effect.

MR. ARGENIO: So moved.

MR. KARNAVEZOS: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board authorize a public hearing for the Plum Point on the Hudson minor subdivision off Lafayette Drive. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. MASON	AYE
MR. KARNAVEZOS	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE